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राजपत्र, हिमाचल प्रदेश (असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, मंगलवार, 25 अक्टूबर, 1977/3 कार्तिक, 1899

GOVERNMENT OF HIMACHAL PRADESH

LAW DEPARTMENT

NOTIFICATIONS

Simla-171002, the 24th October, 1977

No. LLR-D(6)25/77.—The Himachal Pradesh Bhoodan Yagna Ordinance, 1977 (Ordinance No. 5 of 1977), promulgated by the Governor of Himachal Pradesh, under clause (1) of Article 213 of the Constitution of India, on the 19th October, 1977, is hereby published in the Rajpatra, Himachal Pradesh for the information of the general public.

K. C. GUPTA,
Under Secretary.

Ordinance No. 5 of 1977.

THE HIMACHAL PRADESH BHOODAN YAGNA ORDINANCE, 1977

Promulgated by the Governor of Himachal Pradesh in the Twenty-eighth Year of the Republic of India.

An Ordinance to facilitate activities in connection with the Bhoodan Yagna initiated by Shri Acharya Vinoba Bhave, to provide for the constitution of a Bhoodan Yagna Board, the donation of lands to the said Board, the distribution of lands received in donation to landless persons as also their utilisation for community purposes and for purposes connected with the matters aforesaid;

Whereas the Legislative Assembly of Himachal Pradesh is not in session and the Governor of Himachal Pradesh is satisfied that circumstances exist which render it necessary for him to take immediate action;

And whereas the instructions of the President of India under the proviso to clause (1) of Article 213 of the Constitution of India have been obtained;

Now, therefore, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor of Himachal Pradesh is pleased to make and promulgate the following Ordinance, namely:—

CHAPTER I

Short title,
extent and
commence-
ment.

1. (1) This Ordinance may be called the Himachal Pradesh Bhoodan Yagna Ordinance, 1977.

(2) It extends to the whole of Himachal Pradesh.

(3) It shall come into force at once.

Definitions

2. In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) “Bhoodan Yagna” means the movement initiated by Shri Acharya Vinoba Bhave, for the acquisition of lands through voluntary gifts in favour of the board;

(b) “Board” means the Bhoodan Yagna Board established under section 3;

(c) “Community Purpose” means any purpose which is for the good of the community of the village in general;

(d) “Landless person” means a person holding no land or land less than one acre in the capacity of either owner, tenant or a lessee;

(e) “Revenue Officer” means a Revenue Officer appointed under the Himachal Pradesh Land Revenue Act, 1953, and such other officer as the State Government may, by notification, appoint to discharge the functions of a Revenue Officer under this Ordinance.

(f) “prescribed” means prescribed by rules made under this Ordinance; and

- (g) all other words and expressions used in the Ordinance but not defined therein shall have the meaning respectively assigned to them under the Himachal Pradesh Tenancy and Land Reforms Act, 1972.

8 of 1974

CHAPTER II

3. (1) There shall be established a Board by the name of the Himachal Pradesh Bhoodan Yagna Board.

Incorporation, establishment of duties of Bhoodan Yagna Board.

(2) The Board shall be a body corporate having perpetual succession and a common seal with power to acquire and dispose of property both movable and immovable and shall by the said name, sue and be sued.

(3) It shall be the duty of the Board to administer all lands vested in it for the benefit of the Bhoodan Yagna in accordance with the provisions of this Ordinance and the rules made thereunder.

4. (1) The Board shall consist of the Chairman and four or more but not exceeding eight, members to be nominated by the State Government.

Constitution of the Board.

(2) The nomination or appointment of the Chairman and of the members shall be notified in the Official Gazette.

(3) The Chairman and the members of the Board shall hold office for four years from the date of the notification under sub-section (2) and shall be eligible for re-appointment or re-nomination:

Provided that the Chairman or any member of the Board may, at any time, resign his office by submitting his resignation in writing to the State Government but no such resignation shall take effect until it is accepted:

Provided further that the State Government may remove from office the Chairman or any member of the Board who, in the opinion of the State Government, has failed to perform or is unable to carry out his duties or has abused his position as a Chairman or member detrimental to the interest of the public.

(4) The Board may delegate any of its powers and functions under this Ordinance except the power to make regulations under section 30 to any member or to a sub-committee of three or more of its members.

5. (1) If at any time the State Government is satisfied that—

- (a) the Board has failed without reasonable cause or excuse to discharge duties or to perform functions imposed or assigned by or under this Ordinance,
- (b) circumstances have so arisen that the Board is rendered unable or may be rendered unable to discharge duties or to perform functions imposed or assigned by or under this ordinance, or
- (c) it is otherwise expedient or necessary to dissolve the Board,

Dissolution of Board.

it may by notification in the Official Gazette—

- (i) dissolve the board for the period to be specified:
- (ii) direct the reconstitution of the Board in accordance with the provisions of section 4 of this Ordinance; and

- (iii) declare that the duties, powers and functions of the Board under this Ordinance shall, for the period for which it has been dissolved, be discharged, exercised and performed by such person or authority and subject to such restrictions as may be specified therein.

(2) The State Government may make such incidental and consequential provisions as may appear to it to be necessary for this purpose.

Vacancies
in the
Board.

6. The method of filling up vacancies in the Board, procedure of its working and the conduct of its business shall be such as may be prescribed.

Validity of
proceedings.

7. Anything done or any proceedings taken under this Ordinance, shall not be questioned on account of the existence of any vacancy in the Board or any defect or irregularity in the nomination of the Chairman or any member of the Board.

Appoint-
ment of
officers and
servants.
Conditions
of service
of officers
and ser-
vants.

8. The Board may in the prescribed manner appoint such officers and servants as it considers necessary for the efficient performance of its functions.

9. The remuneration and other conditions of service of the officers and servants of the Board shall be such as may be determined by regulations made in this behalf by the Board.

Board's
fund.

10. The Board shall have its own fund and may accept grants, donations gifts or loans from the Central or the State Governments or any local authority or any individual or body of persons, whether incorporated or not, for all or any of the purposes of this Ordinance.

Applica-
tion of
funds.

11. All property, fund and other assets vesting in the Board shall be held and applied by it in accordance with the provisions of this Ordinance and the rules made thereunder.

Tehsil Com-
mittees.

12. (1) The Board may, for any tehsil where it considers necessary so to do, constitute tehsil committees consisting of not less than three and not more than seven members to be appointed by the Board.

(2) The tehsil Committee may delegate any of its powers and functions under this Ordinance to any member or to a sub-committee of three or more of its members.

CHAPTER III

Donation
of land to
Bhoodan
Yagna.

13. (1) Notwithstanding anything to the contrary contain in any law, for the time being in force, any person owning a transferable interest in the land, may donate and grant such land to the "Bhoodan Yagna" by declaration in writing in that behalf (hereinafter called the Bhoodan declaration) in the manner prescribed.

(2) The Bhoodan declaration shall be filed with the Board as soon as it is made:

Provided that if the value of the land described in the Bhoodan declaration, comes to or exceeds Rs. 50,000 on the basis of market price to be calculated in the prescribed manner, the Bhoodan declaration shall not be considered as acceptable, unless the donor of such land produces a certificate,

signed by an Income Tax Officer, or other such authority having competent jurisdiction, to the effect that nothing was due from such donor on account of income-tax or an arrear thereof, on the day of making such donation.

(3) The Board shall, if it considers the gift acceptable, forward the declaration to the Revenue Officer having jurisdiction in the tehsil where the land is situate.

(4) On receipt of the declaration mentioned in sub-section (1) the Revenue Officer shall, if satisfied, after such enquiry as he thinks necessary that the donor is competent to make the gift and has valid title in the land, issue a notice in the prescribed form to such persons as he may consider interested in the property calling upon them, before a date specified in the notice, to show cause why the gift should not be accepted.

(5) The Revenue Officer shall also affix a copy of the notice referred to in sub-section (4) on the notice-board of his court and shall cause it to be published by beat of drum in the village where the land is situate.

(6) Any person interested in the property may, before the date specified in the notice, file objections before the Revenue Officer showing cause why the gift should not be accepted.

(7) All such objections shall be enquired into and decided by the Revenue Officer.

(8) If no objection is filed before the specified date, or if all the objections filed have been rejected by the Revenue Officer, he shall pass an order accepting the gift on behalf of the Board.

(9) On the acceptance of the gift, all title and interest of the donor in the land shall be extinguished and the land shall vest in the Board in the same rights in which it was held by the donor.

(10) The Revenue Officer may, at any stage of the proceedings, reject the offer of the donor on any of the following grounds, namely:—

- (i) that the donor is incompetent to make the gift;
- (ii) that the title of the donor is defective;
- (iii) that there are encumbrances on the land; and
- (iv) such other grounds as may be prescribed;

14. (1) Notwithstanding anything contrary contained in any law, for the time being in force, an owner shall not, for purposes of this Ordinance, be competent to donate—

Land which cannot be donated.

- (a) land recorded or by usage treated as pasture, cremation or burial ground, tank, path way or thrashing floor; and
- (b) such other land as the State Government may, by notification in the Official Gazette, specify.

(2) The holder of a life-estate shall be competent to donate only his life interest therein.

15. (1) Where any land has been donated for purposes of the Bhodan Yagna prior to the commencement of this Ordinance the Board shall prepare a list of all such lands showing therein:—

Land donated prior to the commencement of this Ordinance.

- (a) the area and description;
- (b) the name of the donor;
- (c) the nature of the interest of the donor in the land;
- (d) if the land has been granted to any person in pursuance

- of the Bhoodan Yagna, the name of person to whom the land has been granted;
 (e) the date of the grant under clause (d); and
 (f) such other particulars as may be prescribed.

(2) The list so prepared shall be forwarded to the Deputy Commissioner of the district within whose jurisdiction the land is situate.

(3) On receipt of such list, the Deputy Commissioner shall cause action to be taken in accordance with section 13 in respect of the lands described in the list.

(4) The provisions of sections 13 to 17 shall apply in respect of all the donations of the said lands as they apply in respect of all donations of lands made after the commencement of this Ordinance:

Provided that where an order is made by a Revenue Officer under subsection (7) of section 13, the gift shall be deemed to have been accepted with effect from the date on which the donation of land was made and for this purpose this Ordinance shall be deemed to have been in force on such date.

(5) If any land of which donation so received before the commencement of this Ordinance has already been granted to any person in pursuance of the Bhoodan Yagna, it shall be deemed to have been granted by the Board to such person on the date on which such person takes possession thereof and the grant shall be subject to all liabilities to which any grants made by the Board in general shall be subject.

(6) Notwithstanding the provisions of any law to the contrary, a tenant holding land directly from the State Government shall for the purpose of this Chapter, be deemed to be owning a transferable interest in such land.

Declara-
tion to be
irrevocable.

16. Every gift of land in respect of which an order has been passed under section 13 shall, after the date of the order, be irrevocable.

The land
vesting in
the Board
not attach-
able.

17. The land vesting in the Board shall not be liable to attachment or sale in execution of any decree or order passed by a Civil Court against the Board.

CHAPTER IV

DISTRIBUTION OF LAND

Grant of
land to
landless
persons.

18. The Board or such other authority or persons as the Board may, with the approval of the State Government, specify either generally or in respect of any area, in the manner prescribed, grant land which has vested in it to a landless person and the allottee shall not have, and shall not be entitled to claim any rights in such land except as provided in this Ordinance:

Provided that not less than one fifth of the land vested in the Board and earmarked for distribution under this section, shall be distributed amongst the persons belonging to scheduled castes and not less than one twentieth of such land, shall be distributed amongst persons belonging to scheduled tribes.

19. All grants, transfers and allotments shall be made, as far as the case may be, in accordance with the purpose of Bhoodan Yagna.

Grants, transfers and allotments for the purpose of Bhoodan Yagna.

CHAPTER V

MISCELLANEOUS

20. Notwithstanding anything to the contrary contained in any law for the time being in force, the acceptance of a gift under section 13 or a grant of land made or deemed to have been made under provisions of this Ordinance, shall be and shall be deemed always to have been exempt from:—

Exemption from stamp duty and registration.

(a) payment of stamp duty; and

(b) registration or attestation under the law relating to registration and execution of documents.

21. (1) The State Government may, if it is satisfied that the Board has not been able to grant the land in any year, remit the land revenue or rent due on the land for that year.

Power to remit land revenue.

(2) The State Government may, by notification, direct that the powers conferred on it under sub-section (1) shall, subject to such conditions which may be specified, be exercisable by any officer not below the rank of Deputy Commissioner.

22. If a person to whom land has been allotted under the provisions of section 18—

Power to evict allottee.

(i) makes a breach of any of the terms and conditions subject to which allotment has been made; or

(ii) furnishes any information which is false or which he knows or believes to be false or which he does not believe to be true; or

(iii) fails to pay any dues in respect of the land allotted to him; or

(iv) fails without sufficient cause to cultivate such land (if the land has been allotted for cultivation purposes) for two consecutive years; or

(v) fails to deliver back the possession of the land to the Board or the Gram Sabha, as the case may be, after the expiry of the term of the allotment;

the Board may make an application to the prescribed authority for cancelling the allotment and thereupon the prescribed authority may, after making such inquiry as it deems fit and after giving the allottee an opportunity to be heard, cancel the allotment and restore possession of the land to the Board after ejecting the allottee or any other person found in possession of the land:

Provided that in the case of ejectment of an allottee on the grounds mentioned under sub-section (ii) of this section, such allottee shall also be liable to pay a penal rent at the rate of fifty rupees per bigha, in respect of the land allotted to him and such rent shall be recoverable as arrears of land revenue.

23. (1) The State Government may, by notification and subject to the condition of previous publication, make rules to carry out the purposes of this Ordinance.

Powers to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, the State Government may make rules:—

- (a) prescribing the form of declaration under sub-section (1) of section 13 for submitting a declaration to make a gift of land;
- (b) prescribing the form of notice under sub-section (3) of section 13 calling upon persons to show cause why a gift of land should not be accepted;
- (c) stating other grounds under item (iv) of sub-section (10) of section 13 for rejecting the offer to make a gift;
- (d) prescribing other particulars under clause (f) of sub-section (1) of section 15;
- (e) prescribing the procedure for making the bye-laws by the Board under section 30; and
- (f) any other matter which is to be or may be prescribed under this Ordinance.

(3) Every rule made under this section shall be laid, as soon as may be after it is made before the State Legislature while it is in session for a total period of ten days which may be comprised in one session or two successive sessions, and if, before the expiry of the session in which it is so laid or the session, immediately following, the Legislature requires any modification in the rule or desires that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power to
remove
difficulties.

24. If any difficulty arises in giving effect to the provisions of this ordinance, the State Government may, by order published in the Official Gazette, make such provisions (not inconsistent with the provisions of this Ordinance) as appears to it to be necessary or expedient for the removal of the difficulty.

Ejection
of persons
in unlawful
possession.

25. Any person in possession of the land on the date of the order passed under Section 12 and any person who takes possession, otherwise than in accordance with law, of the land received in donation for purposes of the Bhoodan Yagna may, on application to a Revenue Officer by the Board or the allottee concerned, be ejected. For such ejections the provisions of section 163 of the Himachal Pradesh Land Revenue Act, 1953, shall apply.

6 of 1954.

Partition of
holdings.

26. (1) If the land gifted to the Board forms a part of a holding, the Board or the allottee concerned may apply to a Revenue Officer for possession and the Revenue Officer may, notwithstanding any law to the contrary, partition the holding and demarcate the land and apportion the rent or the land revenue, as the case may be.

(2) If there are any arrears of rent or revenue, as the case may be, on the holding partitioned under sub-section (1) the Revenue Officer shall determine the portion of the arrears due on the part of the holding gifted to the Board and thereupon the Board and the allottee shall be liable to pay the portion of the arrears so determined and notwithstanding anything contained in Himachal Pradesh Land Revenue Act, 1953, the Board or the allottee shall not be liable for the arrears in respect of the remaining part of the holding.

6 of 1953

27. The Board may enter into and perform all such contracts as it may consider necessary or expedient for carrying out any of the purposes of this Ordinance.

Powers to make contract.

28. No action taken or order passed, before or after the commencement of this Ordinance, by the Revenue Officer or any authority under the provisions of this Ordinance shall be called in question by any court or authority.

Jurisdiction of Civil Courts barred.

29. The proceedings under this Ordinance shall be deemed for all purposes to be proceeding under the Himachal Pradesh Land Revenue Act, 1953, and the procedure applicable to proceedings under the said Ordinance shall be followed by the Revenue Officer.

Procedure

30. The Board may, subject to the prior approval of the State Government by notification in the Official Gazette, make regulations for the purpose of carrying out the duties conferred on it by this Ordinance or in respect of any matter supplementary or incidental thereto, and the bye-laws so made shall be published by the Board in the manner prescribed.

Power to make bye-laws.

31. (1) The Himachal Pradesh Bhoodan Yagna Act, 1954, as in force in the areas comprised in Himachal Pradesh immediately before the 1st November, 1966, and the Punjab Bhoodan Yagna Act, 1955, in its application to the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966, are hereby repealed.

Repeal and savings.

(2) Anything done, action taken, land donated and distributed, Board established, rules made, and notifications issued in exercise of the powers conferred by or under the provisions of the Acts repealed under sub-section (1) to the extent of their being consistent with the provisions of this Ordinance, shall be deemed to have been done, donated, distributed, established, made or issued in exercise of the powers conferred by or under this Ordinance as if this Ordinance was in force on the day on which such thing was done, action taken, land donated and distributed, Board established, rules made or notifications issued.

AMINUDDIN AHMED KHAN,
Governor.

SIMLA:
The 19th October, 1977.

K. C. GUPTA,
Under Secretary.

